

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/7/25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	16-CR-776 (VEC)
-against-	:	
	:	PROPOSED ORDER TO
JOSEPH GERARDI,	:	RETURN CRIMINAL FINE,
	:	SPECIAL ASSESMENT, AND
Defendant.	:	<u>AND FORFEITURE</u>
-----X		

VALERIE CAPRONI, United States District Judge:

WHEREAS on December 11, 2018, this Court entered a Judgment ordering Joseph Gerardi to pay a fine of \$500,000, representing \$250,000 on Counts One and Two and \$250,000 on Count Sixteen, and a special assessment of \$300 (Dkt. 945);

WHEREAS on February 11, 2019, this Court ordered Mr. Gerardi to forfeit \$898,954.20 in connection with Counts One and Two (Dkt. 982);

WHEREAS on February 25, 2019, a Satisfaction of Judgment was entered acknowledging that Mr. Gerardi had paid \$500,300 to the Clerk of Court, representing the full sum of his fine and special assessment (Dkt. 987);

WHEREAS on September 8, 2021, the United States Court of Appeals for the Second Circuit affirmed Mr. Gerardi's convictions;

WHEREAS on February 3, 2022, this Court entered a Stipulation and Order of Settlement as to Substitute Assets stating, among other things: "[I]f as a result of further proceedings in the United States Supreme Court the convictions of Defendant Joseph Gerardi on Counts One and Two are reversed or vacated, the government shall have no entitlement to forfeiture against him based on those convictions. Accordingly, the Money

Judgment shall be void ... and the government shall return to Joseph Gerardi any portion of the Money Judgment paid” (Dkt. 1038 ¶ 9);

WHEREAS on February 18, 2022, Mr. Gerardi filed a Petition for Writ of Certiorari in the Supreme Court;

WHEREAS on April 28, 2022, Mr. Gerardi paid the full forfeiture amount of \$898,954.20 by delivering a check payable to the United States Marshals Service to the United States Attorney’s Office;

WHEREAS on May 22, 2023, the Supreme Court granted Mr. Gerardi’s Petition for Writ of Certiorari, vacated the judgment of the Court of Appeals, and remanded the case for further consideration in light of *Ciminelli v. United States*, 598 U.S. 306 (2023), and *Percoco v. United States*, 598 U.S. 319 (2023), *see Aiello v. United States*, 143 S. Ct. 2491 (2023);

WHEREAS on September 23, 2024, the Court of Appeals vacated Mr. Gerardi’s convictions for wire fraud and wire fraud conspiracy (Counts One and Two), affirmed his false statement conviction (Count Sixteen), and remanded for further proceedings, *United States v. Aiello*, 118 F.4th 291 (2d Cir. 2024); and

WHEREAS the Mandate issued on February 3, 2025 (Dkt. 1063);

IT IS HEREBY ORDERED THAT:

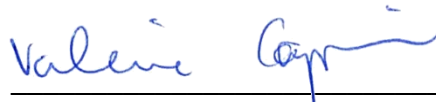
1. The Consent Preliminary Order of Forfeiture/Money Judgment (Dkt. 982) is vacated.
2. The Clerk of Court is directed to return \$250,200 to Mr. Gerardi, representing the sum he paid to the Court in satisfaction of his fine and special assessment with respect to Counts One and Two, by Electronic Funds Transfer using the

banking information on the Form AO 213P Mr. Gerardi will provide to the Finance/Cashier Department.

3. The Government is directed to return the \$898,954.20 forfeiture amount to Mr. Gerardi in accordance with the ACH form Mr. Gerardi will submit to the United States Attorney's Office.

SO ORDERED.

Date: March 7, 2025
New York, New York



VALERIE CAPRONI
United States District Judge